

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

VICTORIA NUNEZ,

Plaintiff,

vs.

CAROLYN W. COLVIN,  
 Acting Commissioner of Social Security,

Defendant.

Case No. 2:15-cv-01871-RFB-NJK

**ORDER**

On October 29, 2015, the Court granted Plaintiff's amended application to proceed *in forma pauperis* and dismissed Plaintiff's Complaint with leave to amend. Docket No. 4. Plaintiff has now filed an Amended Complaint. Docket No. 6. The Court has screened the Amended Complaint pursuant to 28 U.S.C. § 1915(e).

The Court noted several deficiencies in Plaintiff's Complaint. Docket No. 4 at 3-5. Plaintiff has corrected many of those deficiencies. *See* Docket No. 6. Importantly, however, Plaintiff has again failed to show that her civil action is timely filed. *Id.*

The Complaint indicates that the Appeals Council denied the request for review on July 23, 2015. *See* Docket No. 5 at ¶ 8. This case was filed on September 29, 2015, more than 60 days after that denial. While the Complaint indicates that, on September 21, 2015, Plaintiff's counsel requested an extension of time in which to commence a civil action, it fails to attach the Appeals Council's order granting that extension and fails to state the date that the Appeals Council set as the extended deadline. Therefore, the Court found that the Complaint has not sufficiently shown that the civil action is timely. Docket No. 6 at

1 4. The Amended Complaint not only fails to correct the noted deficiency by attaching the Appeal Council's  
2 order, it actually omits the allegation that Plaintiff's counsel requested an extension of time in which to  
3 commence a civil action. *Id.* at 2. Therefore, the Amended Complaint fails to make a sufficient showing  
4 that the instant action was timely commenced. The Court will allow Plaintiff one final opportunity to make  
5 this showing.

6 Based on the foregoing,

7 **IT IS ORDERED** that the Amended Complaint is **DISMISSED**, with leave to amend. Plaintiff  
8 will have until **December 4, 2015**, to file a Second Amended Complaint, if Plaintiff believes she can  
9 correct the noted deficiencies. Failure to file a Second Amended Complaint by December 4, 2015, failure  
10 to make the necessary showing that this action has been timely commenced, or both, will result in a  
11 recommendation of dismissal to the District Judge.

12 IT IS SO ORDERED.

13 Dated: November 5, 2015.

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17 NANCY J. KOPPE  
18 UNITED STATES MAGISTRATE JUDGE  
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